



COMMONWEALTH of VIRGINIA

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From: Elizabeth B. Peay
Assistant Attorney General

Date: September 28, 2009

Subject: Letter of Assurance for 16 VAC 15-30-40, Final Exempt Regulatory Action Repealing 16 VAC 15-30-40

I have reviewed the Department of Labor and Industry's final exempt regulatory action repealing 16 VAC 15-30-40. In my view, as counsel to the Department of Labor and Industry, the Department may promulgate these regulations pursuant to its authority to promulgate regulations under §40.1-100.A.4.a of the Code of Virginia. The repeal of the regulation does not appear to conflict with the Constitution of the United States or the Constitution of the Commonwealth of Virginia, nor does it appear to conflict with any federal or state law currently in effect. In addition, these regulatory changes are exempt from the requirements of Virginia's Administrative Process Act (APA), Code of Virginia §2.2-4006 A.4.a because this regulatory change is necessary to conform to changes in Virginia statutory law where no agency discretion is involved.

This memorandum addresses legal matters only and is not intended to serve, nor should it be construed, as a comment for or against the merits of the proposed regulations.